

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Phyllis Tate,

Plaintiff,

vs.

Officer Colbert, Department of Public
Safety; Lakisha Martin; and Beryl
Lynette Myers,

Defendants.

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) C/A No. 3:16-2715-MBS-SVH
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OPINION AND ORDER

Plaintiff Phyllis Tate, proceeding pro se and in forma pauperis, filed the within action on August 3, 2016, alleging that Defendants violated her constitutional rights. See 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pretrial handling.

The Magistrate Judge twice directed Plaintiff to bring her case into proper form by completing a summons form listing each Defendant, as well as completing Forms USM-285 for each Defendant. On November 9, 2016, after Plaintiff failed to respond to the Magistrate Judge, the case was closed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. On April 13, 2017, Plaintiff moved to reopen the case. The court granted Plaintiff's motion on November 17, 2017. The case has again been referred to the Magistrate Judge.

The Magistrate Judge reviewed the allegations of the complaint pursuant to 28 U.S.C. § 1915. On December 13, 2017, the Magistrate Judge issued a Report and Recommendation in which she observed that the complaint contains no factual allegations of constitutional wrongdoing or discriminatory actions attributable to Defendants Lakisha Martin and Beryl Lynette Myers. Accordingly, the Magistrate Judge recommended that these Defendants be dismissed without

prejudice. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. The complaint is dismissed as to Defendants Martin and Myers without prejudice and without issuance and service of process. The case is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

January 9, 2018